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Johnson files legislation to give scholarships to special needs children

ATLANTA – Senate President Pro Tempore Eric Johnson (R-Savannah) pre-filed legislation today to give scholarships to special needs children to attend the school of their choice – public or private.

“I want the state to give scholarships to any disabled student, whose parents are dissatisfied with their assigned public school, the ability to attend the public or private school that best fits their needs,” Sen. Johnson said today after filing Senate Bill 10 with the Secretary of the Senate.

Modeled after Florida’s *McKay Scholarships for Students with Disabilities Program*, Sen. Johnson’s legislation will require students to have an Individualized Education Program (IEP) and the amount of the scholarship will be equal to the amount of money for services the child currently is receiving in his or her public school or the cost of the private school the child will attend – whichever is less.

“In a recent study of Florida’s scholarship program, findings show that parents are pleased, class sizes are smaller, the children are victimized less and there are fewer behavior problems,” Sen. Johnson continued.

In its fifth year, more than 17,000 special needs students in Florida attended more than 750 private schools there. The average scholarship in the sunshine state was \$6,900 for the nearly 375,000 eligible students, and more than 90 percent of the parents of the students attending school with the McKay Scholarship are satisfied or very satisfied with the scholarship program. Only 32.7 percent were similarly satisfied with their public schools.

Additionally, with the McKay Scholarship program, class sizes for these students dropped dramatically from an average of 25 students per class in public schools to less than 13 students per class in schools participating in the scholarship program. Studies also show that the McKay schools outperformed public schools on measurements of accountability.

Students from military families from other states or countries also may be eligible for the scholarship program.

“Florida has proven that this program works,” Sen. Johnson said. “Similar programs in Ohio, Utah and Arizona also are also working well. Georgia needs to allow this option for our special needs children.”

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Senate Bill 10 - Prefile

By: Senator Johnson of the 1st

A BILL TO BE ENTITLED

AN ACT

To amend Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and secondary education, so as to enact the "Georgia Special Needs Scholarship Act"; to provide for a short title; to define certain terms; to provide for scholarships for public school students with disabilities to attend eligible private schools; to provide for qualifications and criteria for the scholarship program; to establish certain requirements for private schools that participate in the scholarship program; to provide for the amount of scholarship and method of payments; to authorize the State Board of Education to promulgate certain rules; to provide for related matters; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and secondary education, is amended by adding at the end thereof a new article, to be designated as Article 33, to read as follows:

ARTICLE 33

20-2-2110.

This article shall be known and may be cited as the 'Georgia Special Needs Scholarship Act.'

20-2-2111.

The General Assembly finds that:

- (1) Students with disabilities have special needs that merit educational alternatives which will allow students to learn in an appropriate setting and manner;
- (2) Parents are best equipped to make decisions for their children, including the educational setting that will best serve the interests and educational needs of their children;
- (3) Children, parents, and families are the primary beneficiaries of the scholarship program authorized in this article and any benefit to private schools, sectarian or otherwise, is purely incidental;
- (4) The scholarship program established in this article is for the valid secular purpose of tailoring a student's education to that student's specific needs and enabling families to make genuine and independent private choices to direct their resources to appropriate schools; and
- (5) Nothing in this article shall be construed as a basis for granting vouchers or tuition tax credits for any other students, with or without disabilities.

20-2-2112.

As used in this article, the term:

- (1) "Board" means the State Board of Education.
- (2) "Department" means the Department of Education.
- (3) "Eligible private school" means any nonpublic school that provides education to elementary or secondary students, has notified the department of its intention to participate in the program, and complies with the department's requirements.

(4) "Parent" means a biological parent, legal guardian, custodian, or other person with legal authority to act on behalf of a child.

(5) "Prior school year in attendance" means that the student was enrolled and reported by a public school system or school systems for funding purposes during the preceding October and March full-time equivalent (FTE) program counts in accordance with Code Section 20-2-160.

(6) "Program" means the scholarship program established pursuant to this article.

(7) "Resident school system" means the public school system in which the student would be enrolled based on his or her residence.

(8) "Scholarship" means a Georgia Special Needs Scholarship awarded pursuant to this article.

(9) "Scholarship student" means a student who receives a scholarship pursuant to this article.

20-2-2113.

(a) Any parent of a public school student with a disability may request and receive from the department a scholarship for the child to enroll in and attend an eligible private school in accordance with this article.

(b) To qualify for a scholarship:

(1) The student's parent shall reside within Georgia;

(2) The student shall have one or more of the following disabilities:

(A) Autism;

(B) Deaf/blind;

(C) Deaf/hard of hearing;

(D) Emotional and behavioral disorder;

(E) Intellectual disability;

(F) Orthopedic impairment;

(G) Other health impairment;

(H) Specific learning disability;

(I) Speech-language impairment;

(J) Traumatic brain injury; or

(K) Visual impairment;

(3) The student shall have spent the prior school year in attendance at a Georgia public school and shall have had an Individualized Education Program (IEP) written by the school in accordance with federal and state laws and regulations;

(4) The parent shall have obtained acceptance for admission of the student to an eligible private school; and

(5) The parent shall have submitted an application for a scholarship to the public school system no later than the deadline established by the department.

(c) Upon acceptance of the scholarship, the parent assumes full financial responsibility for the education of the scholarship student, including transportation to and from the private school.

(d) For a student who participates in the program whose parents request that the student take the state-wide assessments pursuant to Code Section 20-2-281, the resident school system shall make available to the student locations and times to take all state-wide assessments.

(e) Students enrolled in a school operated by the Department of Juvenile Justice are not eligible for the scholarship.

(f) The scholarship shall remain in force until the student returns to a public school, graduates from high school, or reaches the age of 21. However, at any time, the student's parent may remove the student from the participating school and place the student in another eligible private school.

(g) Acceptance of a scholarship shall have the same effect as a parental refusal to consent to services pursuant to the Individuals with Disabilities Education Act, 20 U.S.C.A. Section 1400, et seq.

(f) The creation of the program or the granting of a scholarship pursuant to this article shall not be construed to imply that a public school did not provide a free and appropriate public education for a student or constitute a waiver or admission by the state.

20-2-2114.

(a) To be eligible to enroll a scholarship student, an eligible private school shall:

(1) Have a physical location in Georgia where the scholarship students attend classes and have direct contact with the school's teachers;

(2) Demonstrate fiscal soundness by submitting a financial information report for the school that complies with uniform financial accounting standards established by the department and conducted by a certified public accountant. The report must confirm that the private school desiring to participate is insured and the owner or owners have sufficient capital or credit to operate the school for the upcoming school year serving the number of students anticipated with expected revenues from tuition and other sources that may be reasonably expected. The report shall be limited in scope to those records that are necessary for the department to make a determination on fiscal soundness and to make payments to schools for scholarships;

(3) Comply with the antidiscrimination provisions of 42 U.S.C. Section 2000d;

(4) Comply with all health and safety laws or codes that apply to private schools;

(5) Comply with all provisions of Code Section 20-2-690 and any other state law applicable to private schools;

- (6) Regularly report to the parent on the student's progress, including, but not limited to, the results of any annual assessment given to the student, in accordance with department guidelines; and
- (7) Annually provide to the parents the relevant credentials of the teachers who will be teaching their students.
- (b) A home school operating under the provisions of Code Section 20-2-690 shall not be eligible to enroll scholarship students.
- (c) Residential treatment facilities licensed or approved by the state shall not be eligible to enroll scholarship students.
- (d) The creation of the program shall not be construed to expand the regulatory authority of the state, its officers, or any public school system to impose any additional regulation of nonpublic schools beyond those reasonably necessary to enforce the requirements of this article.
- (e) A private school intending to enroll scholarship students shall submit an application to the department by June 30 of the school year preceding the school year in which it intends to enroll scholarship students. The notice shall specify the grade levels and services that the private school has available for students with disabilities who are participating in the scholarship program. A private school intending to enroll scholarship students in the 2007-2008 school year shall submit an application no later than June 30, 2007.
- (f) The board shall approve a private school's application to enroll scholarship students if the private school meets the eligibility requirements of this article and complies with board rules established pursuant to Code Section 20-2-2116. The board shall make available to local school systems and the public a list of eligible private schools.

20-2-2115.

- (a) The maximum scholarship granted a scholarship student pursuant to this article shall be an amount equivalent to the costs of the educational program that would have been provided for the student in the resident school system as calculated under Code Section 20-2-161 and any federal funds received by the department for special education services for the student, as determined by the department.
- (b) The amount of the scholarship shall be the lesser of the amount calculated in subsection (a) or the amount of the eligible private school's tuition and fees. The amount of any assessment fee required by the eligible private school may be paid from the total amount of the scholarship.
- (c) Scholarship students shall be counted in the enrollment of their resident school system. The funds needed to provide a scholarship shall be subtracted from the allotment payable to the resident school system.
- (d) Each local school system shall report on July 1, September 1, December 1, and February 1 of each year to the department the number of scholarship students in the resident school system. Following each notification, the department shall transfer from the state allotment to each school system the amount calculated under Code Section 20-2-161 to a separate account for the scholarship program for quarterly disbursement to the parents of scholarship students. When a student enters the program, the department must receive all documentation required for the student's participation, including the private school's and student's fee schedules at least 30 days before the first quarterly scholarship payment is made for the student. The department may not make any retroactive payments.
- (e) Upon proper documentation received by the department, the department shall make scholarship payments to the parents of scholarship students in four equal amounts on dates established by the department during each academic year in which the scholarship is in force. The initial payment shall be made upon evidence of

admission to the eligible private school, and subsequent payments shall be made on evidence of continued enrollment and attendance at the eligible private school.

(f) Payment to the parents must be made by individual warrant made payable to the student's parent and mailed by the department to the eligible private school of the parent's choice, and the parent shall restrictively endorse the warrant to the eligible private school for deposit into the account of the private school.

(g) A person, on behalf of an eligible private school, may not accept a power of attorney from a parent to sign a warrant, and a parent of a scholarship student may not give a power of attorney designating a person, on behalf of an eligible private school, as the parent's attorney in fact.

(h) If the eligible private school requires partial payment of tuition prior to the start of the academic year to reserve space for students admitted to the school, that partial payment may be paid by the department prior to the first quarterly payment of the year in which the scholarship is awarded, up to a maximum of \$1,000.00, and deducted from subsequent scholarship payments. If a student decides not to attend the eligible private school, the partial reservation payment must be returned to the department by the private school. Only one reservation payment per student may be made per year.

20-2-2116.

(a) The board shall adopt rules to administer the program regarding eligibility and participation of private schools, including, but not limited to, timelines that will maximize student and public and private school participation, the calculation and distribution of scholarships to eligible students and participating schools, and the application and approval procedures for eligible students and participating schools.

(b) No liability shall arise on the part of the department or the state based on the award or use of a scholarship awarded pursuant to this article.

(c) The department may bar a private school from participation in the program if the department determines that the school has intentionally and substantially misrepresented information or failed to refund to the state any scholarship overpayments in a timely manner.

SECTION 2.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval and shall apply to the 2007-2008 school year and all school years subsequent thereto.

SECTION 3.

All laws and parts of laws in conflict with this Act are repealed.